

FILED

MAR 12 2004

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JAMES BONINI, Clerk
CINCINNATI, OHIO

Timothy L King

390-b17

Southern Ohio Const. Inst.

P.O. Box 45649

Luxemburg OHIO

45649

PETITIONER

LEONARD GREEN CASE No. C-1-00-989

- VS -

STATE OF OHIO

Respondant

Bruce D. Hottigan

OHIO ATTORNEY GENERAL

Court. Ht. Sec.

615 Superior Ave

11th Floor

Cleveland OHIO

44113-1899

Notice
OF

APPEAL

Notice is hereby given that Timothy L King PETITIONER, hereby Appeals To the Federal 6 Circuit Court of Appeal, For the [6] Appellate District For the Judgement and Sentence of The UNITED STATES District Court ENTERED in This Cause

3/11/04

This is an appeal: pursuant To Rule of Federal Appellate Procedure (Rule) 22(b)(2) TITLE III Habeas Corpus; Proceedings In Forma Pauperis

(in accordance SEE 28 U.S.C. 1291)

(Story vs Kindt 26 F3d 102-05 (3rd Cir 1994)

Also LOZADA v US. 107 F3d 1011-17 (2nd Cir 1997)

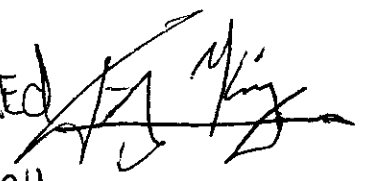
Sig: (PRINT)

Timothy L King

Attached Affidavit In Support

DATE 3/11/04

Right To PETITIONER To HAVE DUE
PROCESS OF LAW. THIS PREJUDICIAL ACTION
did NOT Adjudicate A Fair JUSTLY SESSION
OF Jurisdictional Proceedings. EVIDENCE THAT
Should had BE Admissible WAS DEIVED DUE
To the STATE COURT ANSWERING A
NEGLEGENT PER-SE BRIEF. PETITIONER Could
NOT RAISE ISSUES THAT WOULD HAVE BEEN
REBABLE IN DIRECT APPEAL THE GOVERN-
MENT FAIL TO OBJECT TO THE NEGLEGENT
BRIEF. INSTEAD THEY (STATE COURT)
TULED IMPROPERLY ON AN IMPROPER BRIEF
DEIVING PETITIONER DUE PROCESS OF LAW.
(SEE COLEMAN V THOMPSON 501 U.S. 722, 750
(1991) MURRAY V. CARTER, 477 U.S. 478, 485
(1986); FUGLE V. ISSAC, 456 U.S. 107, 129
(1982); WAINWRIGHT VS. SPIES 433 U.S.
72, 87 (1977). "WHERE A CONSTITUTIONAL VIO-
LATION HAS PROBABLY RESULTED IN THE CON-
VICTION OF ONE WHO IS ACTUALLY INNOCENT";
THE MISSCARRIAGE OF JUSTICE STANDARD HAS
BEENS MET. MURRAY, 477 U.S. AT 496.
SEE ALSO (LEONARD V O'LEARY 788 F.2d 1239-40 (7 Cir. 1986)

RESPECTFULLY SUBMITTED 
4/11/04

Affidavit In Support

The District Court Denied A Habeas Petition On Procedural Grounds Without Reaching Petitioners Underlying Constitutional Claim. A Certificate of Appealability Should Issue, As Required in Slack V. McDaniel 529 U.S. 473, 484-85 (2000). Jurists (Reasonable) Would Find It Debatable Whether The Petitioner States A Valid Claim Of A Constitutional Right Denied. Jurist Of Reasonable Debate Would Find The District Court Rather ^{was} Incorrect In Its Procedural Ruling.

① The District Court Erred:

To Secure The 6th Constitutional Right To Petitioner When The Effective Assistance Of Counsel Was Not Establish To Concluded Counsel's Performance; Moreover, Counsel's Performance Fell An Objectional Creed Of Reasonableness. This Deficient Action Prejudiced The Defendant, Resulting In An "Unreliable" Fundamentally Unfair Out Come Of The Proceeding.

(Strickland v. Washington 466 U.S. 668, 698 (1984))

② The District Court Erred:

To Secure The 5th And Fourteenth Constitutional Amendment